



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

VETOED

AMENDED

FACT SHEET FOR H.B. 2509

food preparation; sale; cottage food

Purpose

Adds, to the cottage food products exemption, food products that are potentially hazardous or require time or temperature control for safety to the extent allowed by state and federal law. Prescribes sale and delivery requirements for cottage food products.

Background

The Department of Health Services (DHS), by administrative rule, must prescribe reasonably necessary measures to ensure that all food or drink provided for human consumption is free from unwholesome, poisonous or other foreign substance and filth, insects or disease-causing organisms. The rules must include minimum standards for sanitary facilities and the production, processing, labeling, storing, handling, serving and transportation of these products. A cottage food product, including fruit jams and jellies, dry mixes made with ingredients from approved sources, honey, dry pasta and toasted nuts, that is prepared in a kitchen of a private home for commercial purposes is excluded from the DHS rules if it is not potentially hazardous or does not require time or temperature control for food safety. The definition of *cottage food product* excludes foods that require refrigeration, perishable baked goods, salsas, sauces, fermented and pickled products, meat, fish and shellfish products, beverages, acidified food products, nut butters or other reduced-oxygen packaged products.

Cottage food products must be packaged at home with an attached label that: 1) clearly states the food preparer's name and registration number; 2) lists all the ingredients in the product; 3) the product's production date; and 4) includes a prescribed disclaimer. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must complete a food handler training course from an accredited program and maintain active certification. The food preparer must register with an online registry established by DHS. The food preparer must display the preparer's certificate of registration when operating as a temporary food establishment ([A.R.S. § 36-136](#)).

This is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Cottage Food Products

1. Adds, to the cottage food products exemption, food products that are potentially hazardous or require time or temperature control for safety.
2. Stipulates that cottage food products do not include beverages, unpasteurized milk or foods that are or contain alcoholic beverages, fish and shellfish products, meat, meat byproducts, poultry or poultry byproducts unless the sale of those items is allowed by federal law, including:
 - a) poultry, poultry byproducts or poultry food products if the producer raised the poultry in accordance with the 1,000 bird federal exemption;
 - b) poultry, poultry byproducts or poultry food products if the poultry is from an inspected source in accordance with federal regulations; and
 - c) meat, meat byproducts or meat food products if the meat is from an inspected source in accordance with federal regulations.

Sale and Delivery Requirements

3. Requires, if a cottage food product is offered for sale online, the online platform to provide a notification that includes all of the following:
 - a) the name and registration number of the food preparer;
 - b) a list of all ingredients in the cottage food product and the cottage food product's production date; and
 - c) a statement that the product was produced in a home kitchen that may process common food allergens and is not subject to public health inspection.
4. Allows a food preparer to sell cottage food products to the maximum extent allowed by federal law, except as provided by state law.
5. Prohibits a food preparer from storing cottage food products or food preparation equipment outside of the food preparer's home.
6. Requires cottage food products that do not contain dairy, meat or poultry to be sold by the food preparer or the agent of the food preparer, including a third-party vendor or carrier.
7. Requires cottage food products that are dairy products or that contain meat or poultry to be:
 - a) sold by the food preparer in person or remotely, including over the internet; and
 - b) delivered to the consumer in person.
8. Requires cottage food products that are potentially hazardous or require time or temperature control for safety and are transported before final delivery to consumers to be:
 - a) maintained at an appropriate temperature during transport;
 - b) not transported more than once; and
 - c) not transported longer than two hours.

9. Requires cottage food products, if sold by a third-party vendor, to be sold:
 - a) in a separate section of the store or on a separate display case from non-homemade food items; and
 - b) with a sign that indicates that the cottage food products are homemade and exempt from state licensing and inspection.
10. Prohibits a cottage food product from:
 - a) being used as an ingredient in food products sold at a permitted retail food establishment; or
 - b) including marijuana or marijuana by-products.
11. Requires a cottage food product to contain only ingredients that are from sources that are approved by law.
12. Prohibits a home kitchen that is used to prepare cottage food products from operating as a commissary for the purposes of serving as a mobile food vendor.

Enforcement

13. Requires DHS to adopt rules relating to cottage food products that are consistent with statute and that include:
 - a) a provision requiring suspension or revocation of an individual's registration for failing to comply with the cottage food products requirements or impeding in the investigation of a reported foodborne illness; and
 - b) guidance relating to approved ingredient source.
14. Allows DHS to enforce cottage food product requirements.
15. Stipulates that the cottage food products requirements:
 - a) are not more restrictive than applicable federal law;
 - b) do not impede DHS from investigating any reported foodborne illness;
 - c) do not change the requirements for brand inspections, animal health inspections or any food inspection required by state or federal law, or change the requirements for the sale of milk, milk products, raw milk or raw milk products in accordance with statute; and
 - d) do not affect any county or municipal building code, zoning code or ordinance or other land use regulation.
16. Prohibits a county from being required to enforce the cottage food products statutes.
17. Stipulates that the cottage food products statutes do not prevent DHS and a local health agency, environmental agency or public health services agency from entering into a delegation agreement to enforce the cottage food products statutes.

Miscellaneous

18. Defines terms.
19. Makes technical changes.

20. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Requires, if a cottage food product is offered for sale online, the online platform to provide a notification that includes all of the following:
 - a) the name and registration number of the food preparer;
 - b) a list of all ingredients in the cottage food product and the cottage food product's production date; and
 - c) a statement that the product was produced in a home kitchen that may process common food allergens and is not subject to public health inspection.
2. Prohibits a food preparer from storing cottage food products or food preparation equipment outside of the food preparer's home.
3. Prohibits a cottage food product from:
 - a) being used as an ingredient in food products sold at a permitted retail food establishment;
 - or
 - b) including marijuana or marijuana by-products.
4. Requires a cottage food product to contain only ingredients that are from sources that are approved by law.
5. Prohibits a home kitchen that is used to prepare cottage food products from operating as a commissary for the purposes of serving as a mobile food vendor.
6. Removes the stipulation that the cottage food requirements do not impede a county from investigating any foodborne illness.
7. Clarifies that the cottage food requirements do not impede DHS from investigating any reported foodborne illness.
8. Stipulates that the cottage food products requirements do not affect any county or municipal building code, zoning code or ordinance or other land use regulation.
9. Specifies that rules required to be adopted by DHS include the following:
 - a) a provision requiring suspension or revocation of an individual's registration for failing to comply with the cottage food products requirements or impeding in the investigation of a reported foodborne illness; and
 - b) guidance relating to approved ingredient sources.
10. Prohibits a county from being required to enforce the cottage food products statutes.
11. Stipulates that the cottage food products statutes do not prevent DHS and a local health agency, environmental agency or public health services agency from entering into a delegation agreement to enforce the cottage food products statutes.
12. Makes technical and conforming changes.

Amendments Adopted by Committee of the Whole

1. Clarifies that a food producer may sell cottage food products to the maximum extent allowed by federal law, except as provided by state law.
2. Eliminates the 18-month exemption provided to DHS from statutory rulemaking requirements after the effective date for the purpose of adopting rules relating to cottage food products.

Governor's Veto Message

The Governor indicates in her [veto message](#) that H.B. 2509 would significantly increase the risk of food-borne illness by expanding the ability of cottage food vendors to sell high-risk foods and fails to establish sufficient minimum standards for inspection or certification of home-based food businesses, limiting the ability of DHS to investigate food-borne disease outbreaks.

House Action

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| RA | 2/1/23 | DP | 7-0-0-0 |
| 3 rd Read | 2/21/23 | | 52-8-0 |
| Final Read | 4/13/23 | | 45-11-3 |

Senate Action

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|----------------------|---------|-----|--------|
| COM | 3/8/23 | DPA | 6-1-0 |
| 3 rd Read | 4/05/23 | | 26-4-0 |

Vetoed by the Governor 4/18/23

Prepared by Senate Research

April 19, 2023

JT/sr